
REVIEW OF SCRUTINY COMMITTEE STRUCTURE

REPORT OF THE DIRECTOR OF GOVERNANCE & LEGAL SERVICES & MONITORING OFFICER

Reason for the Report

1. To enable Members to consider and make recommendations to a future Full Council and the new administration post May 2017, on a preferred model for Scrutiny arrangements (four potential options are appended to this report at **Appendix 1**) that will best equip the Council to provide effective and relevant scrutiny to:
 - Meet the needs of the future administration and wider Council Membership;
 - Take account of a range of recent, current and planned changes to legislation, policy and service delivery;
 - Make best use of Member and officer resources;
 - Provide evidence based policy solutions that will support the Council's governance and improvement; and
 - Help scrutiny fulfil its critical friend role, championing the interests of the citizen.

Section 1: Background, and Scrutiny Review Methodology

2. The Council is currently undertaking a Review of Scrutiny, to help the Administration forming after the May 2017 Council elections swiftly agree and put in place the most effective scrutiny arrangements that will optimise the support available from non-Executive Members in terms of policy development, improvement, and holding the new Cabinet to account.
3. Cardiff's current five committee scrutiny model is similar to that of many other Core Cities, who arrange their scrutiny as below. Most Core Cities also have a range of partnership scrutiny bodies, notably (as mandatory in England) a Health Partnership Committee:
 - **Liverpool** - 7 Committees grouped as a hybrid of Directorate and Portfolio.
 - **Bristol** - 1 Overview and Scrutiny Board, 4 Committees, grouped by Directorate, 1 Call in Committee.

- **Leeds** - 6 Committees, grouped by Directorate.
 - **Manchester** - 6 Committees, grouped by areas of the Manchester Partnership).
 - **Birmingham**- 5 Committees, grouped by Portfolio.
 - **Cardiff** - 5 Committees, grouped as hybrid of Directorate and Portfolio.
 - **Sheffield** - 5 Committees, grouped by Portfolio.
 - **Glasgow** - 2 Committees.
 - **Newcastle** - 1 Overview and Scrutiny Committee.
 - **Nottingham**- 1 Overview and Scrutiny Board, 1 Call-in Panel.
4. Cardiff's model is similar to that of many other Welsh councils. Several of these have five committees, several have four committees, and several have three. There is an even balance between arrangement by directorate, by portfolio and as a hybrid of the two. Two authorities (Pembrokeshire and Denbighshire) have a thematic (Policy Development, Performance Monitoring, Partnership, Pre-Decision) arrangement, and two (Swansea and Anglesey) have a single committee model.
5. The Review has been driven by a number of internal and external factors. Principal among these are:
- Wales Audit Office (WAO)'s February 2016 recommendations that Cardiff:
 - i. Develop an approach to cross-cutting scrutiny (given the increasing nature of collaborative service delivery and governance, and the Wellbeing of Future Generations agenda); and
 - ii. Consider scrutiny's role in addressing the strategic challenges facing the Council at this point in time.
 - Changes to the Council's service delivery arrangements such as the City Deal Regional Cabinet, the shared Regulatory Service and other alternative service delivery models.
 - Ongoing budget pressures and Member and officer capacity.
6. The Review undertook research in October 2016, to benchmark Cardiff's scrutiny arrangements against other Core Cities and Welsh local authorities, and analysed the key local and regional legislative and policy drivers for scrutiny. In November 2016 the Review Project arranged a number of workshops to engage Members and managers, and capture their views on the kind of scrutiny arrangements that might best support the Council's governance, given the factors described above. Those engaged included:

- Scrutiny Committee Chairs
 - Members of the Community & Adult Services and Children & Young People Scrutiny Committee
 - An “All” Member” workshop attended by 10 Members
 - Senior Management Team.
7. Members of Policy Review and Performance Scrutiny Committee considered the Review of Scrutiny on 6 December 2016, giving feedback on some potential options for the most appropriate number of scrutiny committees for the next Council, and the way they might be structured. The Committee also considered:
- The appropriate balance of time that should be invested in different types of scrutiny (eg Policy Development, Performance Monitoring, Pre-Decision Scrutiny, Call-in etc); and
 - The appropriate balance of time that should be devoted to matters considered at formal Committees, and those considered in informal “task and finish” activity.
8. The letter written by the Committee Chair immediately after the meeting is appended at **Appendix 2**.
9. Following this meeting, officers reviewed the feedback received at the workshops, and the key findings from the previous research and analysis, and developed options for consultation during January 2107 with Scrutiny Chairs, Political Group leaders and Council managers, and key external partners such as Health, Police and Cardiff Third Sector Council.

Section 2: Cross Cutting Scrutiny Issues

a) Partnership and Collaboration

10. An obvious cross cutting issue is that of partnership and collaboration. The recently published Welsh Government white paper “Reforming Local Government: Resilient and Renewed” puts emphasis on collaborative regional working and this is therefore likely to increase. During the past 12 months, Cardiff has entered into several significant new local and regional partnership ventures, including the Cardiff Public Services Board, the South East Wales Shared Regulatory Service, and the Integrating Health and Social Care Regional Partnership Board and more recently the Cardiff Region City Deal Regional Cabinet. Existing collaborative ventures (such as the South Central Wales Education Consortium) are strengthening their joint scrutiny activity, while other major partnerships, including the Cardiff Capital Region City Deal Board, and the Council’s new partnership with Greenwich Leisure Limited, are likely to form part of Scrutiny’s future work programme. In the medium term, any Tidal Lagoon Proposals coming forward will have scrutiny implications, as the Cabinet Member for Transport, Planning and Sustainability outlined at Environmental Scrutiny Committee in January 2017.

11. Cardiff Council is also revising its approach to neighbourhood partnerships, which in themselves will have task and finish groups and action plans. During the Review of Scrutiny Councillors have identified the need for scrutiny to prioritise its resources to avoid overlap with other governance structures.
12. Cardiff has already undertaken and managed partnership scrutiny, for example, the five Council Proiect Gwyrdd regional waste project, and predecessors of the current Public Services Board. Currently Policy Review and Performance Scrutiny Committee manages the overview of Public Services Board scrutiny, while the other four scrutiny committees carry out other partnership scrutiny within their terms of reference.
13. None of the options set out at **Appendix 1** have proposed the creation of a specific Partnership Scrutiny Committee – something that some other Welsh local authorities have chosen to introduce. Instead, it is considered preferable for the scrutiny committee whose terms of reference are closest linked to the work of the partnership to take ownership of the scrutiny of that partnership. This will ensure synergy between local and regional scrutiny of the topic, and will also allow the Members with greatest knowledge or interest in the topic to take a lead role in the local and regional scrutiny of the work. The Welsh Government’s 31 January 2017 White Paper “Reforming Local Government: Resilient and Renewed” suggested that given the move towards regional service delivery, local authorities might wish to choose on a case by case basis whether they wished to arrange scrutiny of these services :
 - As part of their “day job” on a local basis (as currently the case for many current partnership scrutiny activities);
 - By undertaking additional informal joint scrutiny task and finish or panel activity (as in the case of the South Central Wales Education Consortium); or
 - By taking part in a bespoke formal joint scrutiny Committee (as is being proposed for the City Deal).

b) Scrutiny of Crime and Disorder

14. The Police and Justice Act 2006 requires local authorities to designate a scrutiny committee with responsibility for the scrutiny of crime and disorder in the authority area. In Cardiff, the responsibility has been effectively discharged for since 2006 by the Community and Adult Services Scrutiny Committee. Any future scrutiny model should ensure that as far as possible the terms of reference of the designated scrutiny committee would optimise its potential to effectively scrutinise crime and disorder, and that it would have adequate capacity to do so.

c) Other Cross Cutting Scrutiny Issues

15. When the Welsh Government consulted on its draft Local Government Bill in 2015/16, it described the potential role of scrutiny within the authority in securing the authority's good governance, self-assessment and improved performance, and the relationships between of internal scrutiny and external auditors, inspectors and regulators in supporting these matters. Any future scrutiny model and wider governance arrangements should optimise scrutiny's ability to play a clear and effective role in improvement, and support these relationships, reducing the external regulatory burden and saving the Council money.
16. Welsh Government also published its Social Services and Wellbeing Act in 2014, setting out a more holistic vision for the way that Information, Advice and Assistance (IAA) would be provided to people inquiring about social care support, and specifying a role for each part of the Council in ensuring good access to IAA. This will have implications for the way that Social Services has traditionally been scrutinised.

Section 3: Other "Key Strategic Challenges" Facing The Council

a) Issues suggested in the WAO's latest Corporate Assessment Report

17. In its February 2016 Corporate Assessment Follow On Report, Wales Audit Office recommended that "The Council must ensure that it addresses the proposals for improvement as set out in this report to deliver improved outcomes within the next 12 months". A future scrutiny model will need to be able to focus on these issues, which are set out clearly in the organisations Management Statement of Action.

b) Ongoing Financial Pressure on Council Revenue Budgets

18. At a time of growing public expectations and statutory responsibilities currently being placed on scrutiny, Council revenue budgets have faced pressure from recent financial challenges facing the organisation. With this in mind, any future proposed scrutiny model should be capable of making the best use of the resources available to it.

c) Member Capacity and Development

19. Equally, a future scrutiny model needs to recognise and support the pressures facing elected members in participating in scrutiny activity around other pressures, such as ward representation and work and family responsibilities.

d) The Place of the Citizen in Scrutiny

20. The Local Government Measure (Wales) 2011 clearly set out the rights and expectations of citizens in interfacing with local authorities through scrutiny, Cardiff's scrutiny councillors expressed a view that scrutiny should be as closely focussed on the needs of citizens as possible. Currently, scrutiny committees regularly receive requests from citizen groups to present a case to a scrutiny committee on a current issue, and some petitions have been presented directly to a scrutiny committee. Citizen groups like Cardiff Third Sector Council are asked to identify items to be included on Scrutiny Committee work programmes. Third sector stakeholder experts regularly present evidence to formal scrutiny committee meetings, and task and finish inquiries. During 2015, third sector organisations were also involved in a pilot of public questions to scrutiny committees. Webcasting was introduced to scrutiny committees in December 2016, and one committee meeting is now being webcast each month.
21. Other methods could also be employed to increase citizen focus and involve our partners more, with capacity being the main factor limiting their implementation. Meetings could, for instance, be held in community settings, and more calls for evidence could be arranged (as they are by the Committees of the National Assembly for Wales). The Scrutiny Chairs have expressed their hope that additional capacity can be released to increase the level of promotion and communication of scrutiny activity, and ways that citizens and partners can be involved in scrutiny.

Section 4: The Arrangement of Scrutiny Committees

22. Any constitutional arrangements that a future Council might establish (in terms of the number and nature of its scrutiny committees) should enable the Council to deliver the key aims of the review. In other words, to enable more cross-cutting scrutiny; to support recent, current and planned changes to Council service delivery; and to best support member and officer capacity to deliver constructive challenge, accountability and improvement.
23. Following the engagement described above, officers have designed a number of options for how scrutiny committees could be structured within the governance arrangements of the new Council after the Council elections on 4 May 2017. These are set out for Members' information at **Appendix 1**. The models presented for consultation at this Committee meeting are:
 - **Model A:** Four committee Model, with a combined social care committee (version 1).
 - **Model B:** Four committee Model, with a combined social care committee (version 2).
 - **Model C:** Four committee Model, with two separate social care committees.

- **Model D:** The Current Scrutiny Model - Five committees, with two social care committees, meeting 11 times per year.

24. The following paragraphs address some of the main areas to focus on in planning effective scrutiny arrangements.

a) The Number of Scrutiny Committees

25. A critical piece of feedback shared by many Members and officers during the Review was that task and finish scrutiny was seen as more productive and effective than the more formal Scrutiny Committee meetings.
26. Therefore, while one of the four potential models attached at **Appendix 1** shows the current five Committee structure, three of them show a four Committee structure. It is hoped that a smaller number of committees might enable a wider range of non-executive Members (both those on a scrutiny committee, but also those not on a scrutiny committee) to devote time to scrutiny task and finish activity. Although both a three committee model and a one committee model were raised as possibilities during engagement on the Review, there was limited appetite for this from either officers or members, as stakeholders felt that there needed to be enough committees to allow Members to develop a degree of speciality and expertise in a defined range of topics.

b) Membership and Co-option onto Scrutiny Committees

27. Since their introduction sixteen years ago, Cardiff's scrutiny committees have each had nine non-executive elected Members on them, with party representation of committee members and chairs being distributed in a manner proportionate to the Council's overall membership. In July 2016, Full Council took the decision to temporarily reduce membership on each scrutiny committee to eight, as it had for some time proven difficult to maintain full membership. Having analysed arrangements in other local authorities, it has been found that at nine members per committee, Cardiff was already one of the authorities with the fewest members on its scrutiny committees. It is recommended that following the May 2017 elections the new Council consider whether the number of elected members on each Committee be reinstated to nine.
28. At the Policy Review and Performance Scrutiny Committee meeting on 6 December 2016, members discussed an issue that an increasing number of members are working, and combine council membership with a full time job. Other members have caring responsibilities at different times during the day. Some members prefer to be a member of a formal scrutiny committee, while others like to invest their time in informal task and finish activity. To best support member appetite, interest and capacity, it may be useful during the next Council to change the current assumption that only members of a formal scrutiny committee could take part in a task and finish Inquiry. It is

recommended that any non-executive member (not just those on scrutiny committees) may be involved in task and finish activity. It is important to note that current protocols on political balance and declaration of interest would be robustly maintained. It will be helpful to specify the maximum number of Members that should sit on an individual task and finish inquiry with nine being suggested as the maximum number.

29. Arrangements would need to be made to appoint a chair of a task and finish Inquiry, if the Inquiry Chair was not the chair of the “parent” formal scrutiny committee.
30. It was also mooted by some current scrutiny chairs during the review that every non-executive member should either be expected to sit on a scrutiny committee, or contribute in another measurable manner to supporting scrutiny activity, recognising that some members commit significant time to other committee activity (such as Planning, Licencing etc).
31. It may be beneficial for the Council to consider extending its current arrangements for co-option of non-elected Members onto scrutiny committees (currently, only Children and Young People Scrutiny Committee has co-optees – two parent governor representatives and two faith representatives). Senior managers were particularly positive about the potential for greater co-option, and many members share their enthusiasm. Some members are, however, less favourable to this idea, and this Committee decided not to extend co-option when it last considered the subject at its 15 July 2015 meeting. Since then, Welsh Government signalled its support for co-option in its consultation on the proposed Wales Bill in 2016. Short of full and permanent co-option onto a formal scrutiny Committee (which could in itself be beneficial), there are various other options – for instance co-option for single meetings, co-option for certain types of scrutiny items (eg performance monitoring), or co-option onto task and finish inquiries or inviting partners or witnesses to engage on particular topics.

c) The Frequency of Formal Scrutiny Committee Meetings

32. Whatever decisions might be made on the number and alignment of future scrutiny committees, another critical factor is the frequency of those committees’ formal meetings. Given current Member and officer capacity, and continuing financial pressure on the Council budget, it is not considered likely that retaining a five committee model with the current frequency of formal scrutiny committee meetings will allow Members to undertake more task and finish activity, which they clearly said they would like to do during the Review’s engagement workshops.
33. Reducing to a four committee model with meetings at the same frequency (11 meetings scheduled per committee each year) is likely to release a small amount of extra officer capacity to support task and finish inquiries. Alternatively, a five committee model with fewer meetings a year could achieve the same aim. If, however, the number of meetings per year were to

be reduced (to, for instance, six bi-monthly meetings per committee), agreement would need to be sought on which items might generally be prioritised for formal meetings, and which for task and finish.

34. However, given the current monthly cycle of Cabinet meetings, if pre-decision scrutiny was considered a high priority to come to formal committee meetings, careful arrangement and scheduling would have to be managed to ensure that items could be scrutinised before Cabinet consideration.

d) Committee Terms of Reference

35. In considering the structure and potential terms of reference of Committees, respondents to the engagement were given the opportunity to give their views on a set of committees arranged by theme (eg Policy, Partnership, Performance and Pre-Decision) as Councils in Pembrokeshire and Denbighshire had introduced. Although members and officers could see the in-principle benefit of these committees delivering cross-cutting scrutiny, again there was less likely buy in to this kind of arrangement to the current style of function led arrangement – with Committees each having responsibility as now for a discrete range of organisational directorates and political portfolios. Members in particular felt that this would allow them to develop a relationship with areas of the Council's work that particularly appealed to them, and to which they felt they could commit their time and expertise. This is, therefore how the models at **Appendix 1** have been arranged.

e) Scrutiny of Social Care

36. Two particular aspects of cross cutting scrutiny that might be particularly important to address could be seen to be those driven by two recent pieces of legislation – namely the Social Services and Wellbeing Act (Wales) 2014, and the Wellbeing of Future Generations Act (Wales) 2015. Some Members were supportive of current arrangements for scrutiny of social care (which sees adult social care issues coming to Community and Adult Services Scrutiny Committee, and children's social care issues going to Children and Young People Scrutiny Committee). However, the Cabinet member for Health, Housing and Wellbeing (whose Portfolio includes Adult Social Care) and the Director of Social Services advocated that a combined social services committee would be able to address the former Act more effectively. They felt that this new arrangement could also support and streamline the relationship with the Care and Social Services Inspectorate Wales, who would only have a relationship with one scrutiny committee.
37. Several of the models at **Appendix 1** therefore illustrate a combined social services committee. Others retain the current alignment between adult social care and independent living / housing support commissioning, which have also become increasingly linked in recent years in light of the requirements of the Social Services and Wellbeing Act (Wales) 2014.

f) Scrutiny of the Wellbeing of Future Generations

38. Welsh Government specified in the Wellbeing of Future Generations Act (Wales) 2015 a statutory role for scrutiny in providing assurance and monitoring of the development by the Public Services Board of a Population Needs Assessment and resultant Wellbeing Objectives. In terms of the broader Wellbeing agenda and the work of Cardiff's partnership work at the Public Services Board (PSB), the Council's Policy Review and Performance Committee (PRAP) had adopted overview of this agenda in 2015, following consideration of previous advice from Her Majesty's Inspectorate for Education Estyn. During 2016, this Committee programmed two meetings to discuss the PSB and Wellbeing agenda, but it is possible that the associated workload might increase in the next few years. Welsh Government Guidance suggested that dedicated scrutiny resources should be ring-fenced to ensure effective analysis and robust assurance. Any future model should be mindful of the need to ensure capacity is available for the appropriate Committee (suggested to be retained in PRAP) to deliver.

g) Scrutiny of the Cardiff Capital Region City Deal

39. The scrutiny arrangements of Cardiff's biggest new partnership venture – the Cardiff Capital Region City Deal – are currently being considered. It has been suggested that a joint scrutiny body be put in place to provide assurance for the City Deal's Regional Cabinet arrangements, but this is under consideration. No proposals have been developed to date, and even if a joint scrutiny body was appointed there will still be a need for local scrutiny.

h) Arrangement of Performance Monitoring at Scrutiny

40. WAO recognised in its February 2016 Corporate Assessment Follow On report that the Council's performance management approach is undergoing a transition, and in its WAO Management Statement of Action in March 2016, the Council built a number of projects into its Organisational Development Programme to ensure improvement of performance management and monitoring.
41. Each of the models at **Appendix 1** assume that each Committee will retain a degree of monitoring of the performance of the services within their terms of reference, while the "corporate" committee (currently called PRAP) will retain a wider overview of corporate performance and budget management. The aim will be to optimise Member involvement and skills, while reducing any unnecessary duplication.

i) Avoidance of Duplication Between Committee Functions

42. The Review identified views from members and senior managers that steps should be taken to avoid any unnecessary duplication of functions between

Council committees. On the one hand, while there are occasions when two or more scrutiny committees have an interest in closely related matters, the terms of scrutiny committees should carefully remove any unnecessary duplications. Secondly, steps should be taken to ensure clearly separated focus between a scrutiny committee and another Council committee (eg Planning, Audit, Corporate Parenting). Thirdly, a number of Members perceived unnecessary duplication between some non-scrutiny committees (eg Constitution Committee and Democratic Services Committee) that a future Council should address.

43. In concluding this section of the report, members are requested to consider the options set out at **Appendix 1** and the consultation feedback, and agree recommendations to the future Full Council on the matters detailed in the report. The establishment of Scrutiny Committees is a standing item on the agenda of the Annual Council, which takes place in May 2017.

Legal Implications

44. The Local Government Act 2000 requires authorities to set up overview and scrutiny committees. The legislative provisions for overview and scrutiny committees for Wales have been amended and supplemented by the Local Government (Wales) Measure 2011. The provisions of the 2000 Act, the 2011 Measure and Regulations made there under (for example, the Local Authorities (Joint Overview and Scrutiny Committees) (Wales) Regulations 2013) must be considered when determining the future scrutiny model for Cardiff.
45. In addition, other legislation imposes requirements as regards scrutiny. For example, The Police and Justice Act 2006 made provision for a range of changes to the way in which Community Safety Partnerships (CSPs) in Wales fulfil their responsibilities in relation to tackling crime, disorder and substance misuse in their locality. These changes, contained in sections 19, 20 and 21 of the Police and Justice Act 2006, include a requirement that local authority scrutiny structures should consider crime and disorder matters. The Wellbeing of Future Generations Act (Wales) 2015 specifies Executive arrangements by a local authority under the Local Government Act 2000 must ensure that its overview and scrutiny committee has power to review or scrutinise decisions made, or other action taken, by the public services board for the local authority area in the exercise of its functions. To ensure compliance with legislative requirements, legal advice has and will be provided on the scrutiny model for Cardiff as the proposals are developed.
46. Consultation - The report refers to consultation undertaken and in considering this matter regard should be had to the outcome of the consultation.
47. Equality Duty - In considering this matter regard must be had to the Council's duties under the Equalities Act 2010 (including specific Welsh public sector duties) – the Public Sector Equality Duties (PSED). These duties require the Council to have due regard to the need to (1) eliminate unlawful discrimination, (2) advance equality of opportunity and (3) foster good relations on the basis of

'protected characteristics'. The 'Protected characteristics' are: Age, Gender Reassignment, Sex, Race – including ethnic or national origin, colour or nationality, Disability, Pregnancy and Maternity, Marriage and Civil Partnership, Sexual Orientation, and Religion or Belief – including lack of belief. In determining the scrutiny model the decision maker will need to be satisfied that scrutiny can be carried out in a way that ensures the Council's Public Sector Equality Duties are met.

Financial Implications

48. Constitution Committee is being asked to make recommendations for a future Full Council to consider, following the May 2017 Council elections. The options set out in this report can all be funded from within the 2017/18 budget allocation for Scrutiny Services and in the event of unforeseen then they need to be found from within the existing budgetary allocation. Committee is being asked to make recommendations for a future Full Council to consider, following the May 2017 Council elections.

Consultation

49. As detailed in the body of this report, Members and senior managers have been engaged throughout the process of the review. Further to this, the strategic partners represented on the Cardiff Public Services Board have been invited to provide their views on the issues presented above, to inform Members in reaching recommendations.
50. Discussions have been held with the Cardiff and Vale University Health Board, Cardiff Third Sector Council, South Wales Fire and Rescue Service, South Wales Police and the Office of the South Wales Police and Crime Commissioner. Initial feedback has found that the Third Sector Council would welcome greater involvement in the scrutiny process, and feel that the sector has more to offer in connecting the Council with its citizens. The Office of the South Wales Police and Crime Commissioner has pointed to the value provided by scrutiny in assuring democratic oversight of crime and disorder, and of supporting partnership activity.
51. Any further feedback received from each of the partners will be presented orally at the meeting.

Recommendations

The Committee is recommended to consider the information in the report and appendices, and:

1. Recommend a preferred Scrutiny model for consideration by Full Council and the new administration post May 2017.

2. Agree that during the next Council, scrutiny committees will each have nine elected Members;
3. Agree that all non-Executive elected Members will be encouraged to participate in Scrutiny, as committee members and / or as members of task and finish inquiries. The maximum number of Members to sit on a task and finish inquiry should be nine; and
4. Ensure that partners and citizens are involved in scrutiny activity by encouraging external participation in formal scrutiny committee meetings and task and finish activity.

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23 February 2017

Appendix 1: Potential Future Scrutiny Committee Models.

Appendix 2: Scrutiny Chair's letter to Cabinet Member after Policy Review and Performance Scrutiny Committee meeting, 6 December 2016.